in an earlier case if misbehaviour of accused could interfere with a trial accused persons could prevent a trial being brought to a conclusion by their own conduct. But in this case, in view of the verdict arrived at I do not propose to initiate any further proceedings against the accused. The matter may perhaps be looked into by the proper authorities to consider whether the laws for contempt of court are adequate in these type of proceedings and if inadequate whether necessary legislation should be enacted to ensure that similar conduct may be avoided in future cases.

Another aspect of the case I should comment on is the conduct of the three retained counsel in the case. In the first instance when the prosecution had almost concluded their case Mr. S.T. Lee wanted to discharge himself and even though he was told by the court to remain he walked out completely indifferent to the situation he was leaving the court in when his client was facing capital charges. This necessitated an adjournment of the case. At the next hearing another adjournment was necessitated on the application of Mr. Annamalai who was sick. Before the next hearing Mr. Karpal Singh and Mr. Annamalai discharged themselves and even after being released by the court came to court and Mr. Karpal Singh wanted to address the court. This resulted in the two accused interfering with the court on the ground that the court was preventing Mr. Karpal Singh appearing for the accused. And this resulted in further interference with the court by accused. This case which should have concluded in August 1977 was only concluded in January 1978 as a result of these machinations. Counsel discharging themselves from a case have a duty to impress upon and explain to their clients that they are doing it of their own volition and the courts have nothing to do with their decision. Conduct such as this by members of the Bar who are officers of the court to deliberately interfere and obstruct the administration of justice and the functioning of the court is not only no credit to the Bar but brings the matter of integrity of the Bar into question. And unless those responsible for the discipline and conduct of members of the Bar play a more active part in enforcing ethics, etiquette and discipline on the "black sheep" society may look to other sources for such control and this may mean a further diminishing of the credibility of the Bar. Now I proceed to the sentence.

Having convicted you on all the four charges, the only sentence I can pass on you is death.

Sentenced to death on first charge. Sentence stayed on all the other three charges.

Order accordingly.

OTHMAN BIN PAKIR MOHAMED & ANOR. v. YUSUF BIN AHMAD & ANOR.

[A.C.J. (Syed Agil Barakbah J.) February 12 & April 18, 1978]

[Alor Star — Civil Suit No. 198 of 1973]

Damages — Quantum — Liability admitted — Appeal against court's award of $15,000 — Bruises, over the cheek and chin, dislocation of 3 upper teeth and fracture of the jaws.

Damages — Jaws — Fracture — Injuries over cheek and chin — Teeth — Dislocation.

In this case an appeal was brought against the court's decision in awarding the second plaintiff general damages in the sum of $15,000 and costs against the defendants who admitted liability. The second plaintiff, aged 33, was wife of the first plaintiff, a diplomatic officer, whose claim had already been settled. As a result of the motor accident while she was a passenger in the motor-car driven by her husband she suffered multiple bruises over the cheek and chin regions, dislocation of 3 upper teeth and fracture of the upper and lower jaws. The scars on the chin were still visible and as a result of the said injuries the second plaintiff had to wear permanent denture. She had to stay away from diplomatic parties for seven or eight months as the denture had caused her some embarassment particularly while eating during parties.

Held: in the circumstances the award of $15,000 as general damages was fair and reasonable compensation. The sum included $10,000 for pain and suffering ($7,000 for fractures of the jaws and $3,000 for loss of the upper teeth), and $5,000 for loss of amenities. The element of overlapping had been borne in mind.

CIVIL SUIT.

N.T. Vello for the plaintiffs.

Kannappan Gurusami Pillai for the defendants.

Syed Agil Barakbah J.: This is an appeal against my decision in awarding general damages in the sum of $15,000 and costs for the 2nd plaintiff. Prior to the proceedings, the defendants admitted liability for the motor accident. In the course of the proceedings, settlement was reached as regards the 1st plaintiff's claim. The defendants agreed to consent judgment in the sum of $1,500, inclusive of general and special damages, be awarded to the 1st plaintiff and costs to be taxed. The action only proceeded on the claim by the 2nd plaintiff on quantum of damages. The 2nd plaintiff's claim for special damages was not proceeded with.

Mr. Vello appeared for the plaintiffs and Mr. Pillai, for the defendants. The Agreed Bundle of Documents is marked Exhibit "A" and the Statement of Agreed Facts is marked Exhibit "B".

The 2nd plaintiff, 33 years of age, is the wife of the 1st plaintiff, now serving in the Malaysian Embassy, Tokyo, Japan as Third Secretary, Protocol. During the accident on October 6, 1972, he was Vice Consul at Songkhla, Thailand. As a result of the motor accident while she was a passenger in the motor-car driven by her husband, she received the following injuries:—

(i) Multiple bruises over cheek and chin regions;

(ii) 3 of the upper teeth completely dislocated;

(iii) Fracture of the upper and lower jaws.

(See page 8 of Exhibit P1).

She was hospitalised at the District Hospital, Sg. Patani on the day of the accident, then transferred to the General Hospital, Penang, and discharged six

days later on October 18. She then continued outpatient treatment on every alternate day for one week and thereafter, once a week for the duration of six weeks or so. Her fractured jaws were still wired, when on May 7, 1973 she was examined by the Dental Specialist, General Hospital, Penang, Dr. Cheong Mow Lum. (See page 10 of Exhibit A). She had to go on liquid diet during the period. The scars on her chin were still visible. I noticed in court they were slightly visible. She was wearing plastic denture in place of her three missing upper teeth. She still had them while in court. During the proceeding she took them out at one stage while giving evidence. There was a gaping hole which to a certain extent mars her appearance but not so when she put them on again. No denture was made for the two lower teeth that were out of alignment with the other lower teeth because they were not extracted on her request. That she has suffered pain during the early period while in the hospital is obvious. She was having occasional pains in the region of the fractured jaws, but these have since ceased. She still had occasional pains on her left knee.

When she was having temporary denture, she could not chew properly. Later with permanent denture, she still had a problem with testing food because of the covering on the top part of the denture. She had to stay away from diplomatic parties for seven or eight months. I accept her evidence that the risk of it sticking or even falling, if one is not careful, when taking food like chicken or meat is present. As a wife of a diplomatic officer, she has to attend or host parties or dinners. She certainly has to be at her best in every aspect. The denture has caused her some embarrassment, particularly while eating during the parties. In the result she has to be extra careful and more alert than any other person with natural teeth and has to avoid some kinds of foods she likes for fear the denture might get loose. No doubt in the course of time she will get used to the denture, but all the same the handicap is always there. There is also the inconvenience apart from the embarrassment.

Taking into consideration the relevant authorities cited by both counsel as guidance and keeping in mind the fall in the purchasing power of money, I award a lump sum of $15,000 as general damages as fair and reasonable compensation. The sum includes the award of $10,000 for pain and suffering due to the fractures of both jaws and the loss of the three upper teeth, inclusive of the medical treatment and suffering she had undergone for quite some time. For the fractures of the jaws, in line with comparable cases, I assess the sum of $7,000 and for the latter injury, a sum of $3,000. For loss of amenities, for the reasons discussed earlier, the sum of $5,000, in my view, is fair and reasonable. In making this assessment, I bear in mind the element of overlapping. The plaintiff is also entitled to costs and interest.

Order accordingly.

Solicitors: *Chang & Vello; Tunku Zuhri, Manan & Abdullah.*

SALLEH BIN AWANG v. PUBLIC PROSECUTOR

[R.Cr.J. (Mohamed Zahir J.) May 8, 1978]

[Kota Bharu — Criminal Revision No. 2 of 1977]

Criminal Law and Procedure — Plea of guilty of using motor vehicle without valid driving licence — Expired licence — Whether accused guilty of using a motor vehicle without policy of insurance covering third party risks — Duty of prosecution to prove insurance was not in force — Road Traffic Ordinance, 1958, ss. 25(1), 74, 75 & 146.

Road Traffic — Driving licence — Genuine forgetfulness — Failure to attend court on revision — Road Traffic Ordinance, 1958, s. 79.

In this case the accused had pleaded guilty to two charges of using a motor vehicle without a valid driving licence and of using a motor vehicle without a policy of insurance covering third party risks. The accused, it appeared, had forgotten to renew his licence, which expired a month before he was summoned. The accused was fined $25 and $60 on each charge respectively and was disqualified from holding a driving licence for the period of one year. He wrote to request a review of the disqualification sentence.

Held: (1) it was for the prosecution to prove that the policy of insurance was not in force at the time of the use. Each case should be decided on the terms of the policy and section 79 of the Road Traffic Ordinance was irrelevant as to the criminal liability of the user;

(2) where a person genuinely forgot to renew his driving licence and at the material time he had no reason to believe that there was no insurance policy in force, then he could not be convicted under section 74(1) of the Road Traffic Ordinance and no disqualification would ensue;

(3) where a person was convicted of the offence of using a motor vehicle with no policy of insurance against third party risks in force, disqualification should follow the conviction unless there were special reasons;

(4) in this case as the accused had failed to attend the court on the revision, the court was unable to ascertain whether the third party was protected or not by reason of section 79 of the Road Traffic Ordinance and therefore the order of disqualification would be confirmed.

Cases referred to:-

(1) *Tan Kwang Chin* v. *Public Prosecutor* [1959] M.L.J. 252.

(2) *Demon* v. *Public Prosecutor* [1966] 2 M.L.J. 147.

(3) *Public Prosecutor* v. *Lim Ching Chuan* [1972] 1 M.L.J. 27.

(4) *Josephine Yii Chui Leng* v. *Public Prosecutor* [1973] 2 M.L.J. 47.

(5) *Public Prosecutor* v. *Sia Yok Hua* [1974] 1 M.L.J. 93.

(6) *Public Prosecutor* v. *Lee Hong Kee* [1969] 2 M.L.J. 60.

(7) *Public Prosecutor* v. *Nasir* [1972] 2 M.L.J. 39.

(8) *Velusamy & Anor.* v. *Public Prosecutor* [1974] 1 M.L.J. 15.

(9) *Public Prosecutor* v. *Ung Ah Leng* [1974] 1 M.L.J. 84.

(10) *R.* v. *Tan Hong Heng* [1965] 1 M.L.J. 124.

(11) *T.S.B. Maniam* v. *Public Prosecutor* [1946] M.L.J. 39.

CRIMINAL REVISION.

A. Wilson for the applicant.

Mohammed Apandi bin Ali (Deputy Public Prosecutor) for the respondent.

Mohamed Zahir J.: This case came up before me by way of revision. The applicant was on January 5, 1977 found guilty on the following charges:

"Tudohan Pertama:

Bahawa kamu pada 10.12.1976 jam lebih kurang pukul 11.15 pagi, di Batu 42 Jalan Kota Bharu/Kuala Krai, dalam jajahan Ulu Kelantan, dalam Negeri Kelantan, sebagai